

Before the
Federal Communications Commission
Washington, DC 20554

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In the Matter of

Request for Review of the
Decision of the
Universal Service Administrator by

Davidson County Schools
Lexington, North Carolina

Federal-State Joint Board on
Universal Service

Changes to the Board of Directors of the
National Exchange Carrier Association, Inc.

File No. SLD-236032

CC Docket No. 96-45

CC Docket No. 97-21✓

ORDER

Adopted: November 26, 2002

Released: November 27, 2002

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review filed by Davidson County Schools (Davidson County), Lexington, North Carolina.¹ Davidson County seeks review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator) to reject Davidson County's appeal on the grounds that it was untimely filed.² For the reasons set forth below, we deny Davidson County's Request for Review

2. SLD issued an Outside the Window Pink Postcard on July 17, 2001, informing Davidson County that its FCC Form 471 application was submitted after the Funding Year 2000 filing window had closed at 11:59 p.m. EST on January 19, 2000.³ On July 18, 2002, Davidson County filed an appeal of SLD's decision. In its appeal to SLD, Davidson County asserts that it never received such a Pink Postcard.⁴ On September 17, 2002, SLD issued an Administrator's

¹ Letter from Sue Whitman, Davidson County Schools, to Federal Communications Commission, filed October 10, 2002 (Request for Review).

² See Request for Review. Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of the Administrator may seek review from the Commission. 47 C.F.R. § 54.719(c).

³ Outside the Window Pink Postcard from Schools and Libraries Division, Universal Service Administrative Company, to Davidson County Schools, dated July 17, 2001 (Pink Postcard).

⁴ Letter from Sue Whitman, Davidson County Schools, to Schools and Libraries Division, Universal Service Administrative Company, filed July 18, 2002 (Request for Administrator Review).

Decision on Appeal, indicating that it would not consider Davidson County's appeal because it was received more than 30 days after the July 17, 2001 Pink Postcard was issued.' Davidson County subsequently filed the instant Request for Review with the Commission.

3. Davidson County asserts that it did not receive the July 17, 2001 Pink Postcard, and became aware of the decision only after having contacted SLD on July 12, 2002. A review of the record indicates that SLD did issue a Pink Postcard on July 17, 2001. Merely stating that a letter was not received at the address provided to SLD and to which prior correspondence had been successfully mailed is insufficient grounds for reconsideration.⁶

4. For requests seeking review of decisions issued before August 13, 2001, under section 54.720(b) of the Commission's rules, an appeal must be filed with the Commission or SLD within 30 days of the issuance of the decision that the party seeks to have reviewed.' Documents are considered to be filed with the Commission or SLD only upon receipt.' The 30-day deadline contained in section 54.720(b) of the Commission's rules applies to all such requests for review filed by a party affected by a decision issued by the Administrator.' Because Davidson County failed to file an appeal of the July 17, 2001 Pink Postcard within the requisite 30-day appeal period, we affirm SLD's decision to dismiss Davidson County's appeal to SLD as untimely and deny the instant Request for Review.

⁵ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Sue Whitman, Davidson County Schools, dated September 17, 2002 (Administrator's Decision on Appeal).

⁶ See *Request for Review by Whitehall City School District, Federal-State Joint Board on Universal Service, Changes to the Board of Directors of the National Exchange Carrier Association, Inc.*, File No. 145224, CC Dockets No. 96-45 and 97-21, Order, 15 FCC Rcd 15157, n.2 (Com. Car. Bur. 2000); *Juan Galiano*, Memorandum Opinion and Order, 5 FCC Rcd 6442, 6443 (1990) ("[I]f the Commission were to entertain and accept unsupported arguments that letters mailed in Commission proceedings were not delivered... procedural havoc and abuse would result.").

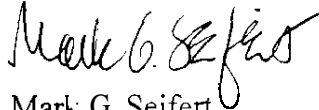
⁷ 47 C.F.R. § 54.720(b).

⁸ 47 C.F.R. § 1.7

⁹ We note that, due to recent disruptions in the reliability of the mail service, the 30-day appeal period has been extended by an additional 30 days for requests seeking review of decisions issued on or after August 13, 2001. See *Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Order, 17 Rcd 339 (2001), as corrected by *Implementation of Interim Filing Procedures for Filings of Requests for Review, Federal-State Joint Board on Universal Service*, CC Docket No. 96-45, Errata (Com. Car. Bur. rel. December 28, 2001 and January 4, 2002); SLD web site, What's New (January 20, 2002), <<http://www.sl.universalservice.org/whatsnew/012002.asp#extend3ed>>. Because the July 17, 2001 Outside the Window Pink Postcard was issued before August 13, 2001, the extended appeal period does not apply to Davidson County.

5. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Request for Review filed by Davidson County Schools, Lexington, North Carolina on October 10, 2002 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

A handwritten signature in black ink, appearing to read "Mark G. Seifert".

Mark G. Seifert

Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau